

BEFORE THE ARBITRATOR

In the Matter of Interest Arbitration between

BETTENDORF COMMUNITY SCHOOL
DISTRICT

and

BETTENDORF EDUCATION ASSOCIATION,
ISEA-NEA

Appearances:

Donald C. Hoskins, Attorney at Law, appearing on behalf of the Employer

Linda Schneider, UniServ Director, appearing on behalf of the Association

INTERST ARBITRATION AWARD

Bettendorf Community School District, herein "Employer," and Bettendorf Education Association, ISEA-NEA, herein "Association," selected the undersigned from a panel of arbitrators supplied by the Iowa Public Employment Relations Board to hear and decide their dispute with respect to their July 1, 2006, to June 30, 2007 collective bargaining agreement pursuant Sec. 20.22, Iowa Code. I held a hearing in the matter on May 24, 2006, in Bettendorf, Iowa. The parties made oral argument and waived the filing of post-hearing briefs.

ISSUES

There are two impasse issues in dispute. The major impasse issue is salary (the base increase). There is a supplemental pay issue with respect to the middle school cross country coach.

1. The Association proposes to increase the based from \$25,400, by \$350 to \$25,750. The Employer proposes to increase the base to \$25,500.¹

2. The Association to add a supplemental pay provision to the agreement to create a pay scale for the Middle School Cross Country Coach. There is no provision now and the two Middle School Cross County Coaches. The Association proposes an index of .08.

¹ The reference to base salary in the Association's materials includes the negotiated base salary plus phase money,

The Employer denies that there is any supplemental position of Cross Country Coach. It proposes to keep the "current contract" which would essentially keep the task as a voluntary task.

POSITIONS OF THE PARTIES

ASSOCIATION:

The parties engaged in hybrid negotiations; negotiations which were not quite interest based, but not entirely positional. The parties have essentially used the same costing system for their proposals. However, the core of this dispute is that the Employer has costed its self-funded insurance premium equivalent at a 25% increase, while the Association believes that it should be costed at 10% on the same method of costing.

The Association uses the 7 school districts in the Mississippi Athletic Conference (herein "MAC") as its local comparability group. These are relatively similarly sized except for the much larger school district of Davenport. The second comparability group it uses is the 10 larger Iowa school districts and the 10 lower Iowa school districts.

The MAC comparison data shows that Bettendorf ranks well, but that it is below average at the BA minimum, Top BA minimum and BA+30. In the 10/10 group the results are similar; low in the first BA lane rankings, below average in the to BA lane and higher than average in the MA lane benchmarks. It acknowledges that as teachers progress through the salary schedule the pay schedule becomes much stronger vis a vis the comparables. Bettendorf has declined from 2d in Iowa in 2004-5 to now only ranking only 7th in Iowa as to average salary.

The Employer is improperly unilaterally setting its premium-equivalents for the self-funded health insurance plan at 25% when the proper costing should be 10%. The reason for the difference is that the Employer is unilaterally increasing reserves from 4 months to 10 or 12 months². A 25% increase means that 4.47% of the total package goes for health insurance increases, while 10% means that insurance accounts for only 1.78%. The Association presented a letter from the health plan's third party administrator, Wellmark Blue Cross/Blue Shield (herein Wellmark) stating that a 10% increase in premium equivalent is adequate for the coming year. 10% is adequate because Wellmark has a short turn around time in paying claims. The Iowa Insurance Commissioner's office told the Association that 4 months of reserve was appropriate for the plan. Bettendorf's premium rates are one of the lowest in the comparability groups.

The Employer has the ability to meet the Association's offer. The Employer is fiscally well-managed. The Employer's unspent balance at the end of 2004-5 was \$2,689,931, the second highest unspent balance in its history. The Employer's ending fund balance at the same time (actual money) was \$7,339,364. The Employer has levied the cash reserve levy for 2004-5 and 2005-6. For 2006-7, the Employer will be allowed

² The Employer changed this to 6 months prior to hearing and presented its case on the basis of a six month reserve.

1.67% new money. The Association's offer can be funded by turnover saving and money earmarked for special education teachers. The Employer will have savings of \$131,000 from staff reductions it has already made for the 2006-7. It has turnover savings from retirees in 2005 of \$384,037.14.

Depending on how the health insurance is costed the Association's final offer is within the average of total package settlements as reported by the ISEA, 4.95% on 2.95% new money. When the health insurance increase is costed as the Employer proposes, the Employer's offer is 4.79% (\$852,270) and the Association's is 5.68% (\$1,008,053). The actual cost difference for the health insurance between the two methods of costing is \$368,365. Thus, each offer should be costed \$368,265 less. The ISEA reports that there are 36 districts with regular program increases between .67% and 2.67%. The average total package settlement in that group is 4.38%.

There are currently two coaches volunteering their time to coach 35-40 seventh and eight graders, during a seven week season. There are two districts in the MAC which have paid middle school track. The Employer is permitting the employees to do this work and they should be compensated.

EMPLOYER:

The real issue as to the salary concerns the effect of the admittedly large increase the Employer has been required to make in its premium-equivalent for its self-funded health insurance plan. The Employer's insurance costs have mushroomed by 85.9% since just 2000-1. Last year claims increased by \$821,993 or 28.5%. However, last year was not aberrant. Claims for the first third of this insurance fiscal year are \$2,288,453, a figure which is on track to be well ahead of the last fiscal year. Accordingly, the Employer has been required to increase its premium equivalent by 23.7% in order to manage the self-funded plan in a fiscally sound way. All employee groups, except the teachers, have switched to a different plan that more effectively controls costs. The result of the teachers' refusal to switch plans is that other, lesser-paid, employees are effectively subsidizing the teachers' plan. The teachers' usage of the plan in a one year period is about \$7,500 per person while other units' usage has been about \$4,900 per person.

The Association's position of a base increase of \$350 is even greater than its proposal of a \$300 base increase made in interest arbitration in the year 2003-4. That was at a time when the premium-equivalent rose by just 18.71% (\$250,450), compared to this year's 23.7% increase (\$505,127). That contract was settled by Arbitrator Hoh who ruled for the Employer. The result of this large increase is that it makes the Association's offer one of the highest in the state in terms of total package.

The Employer is a fiscally well managed school district. Although it has new money of only 1.67% (\$345,938) compared to the state average of 2.13%, it does not deny that it has the ability to meet the Association's offer. Instead, it argues that the Association's position is just not reasonable. The Association's position makes its offer one of the highest total packages in the state. The Employer has a long history of

declining enrollment and, consequently, a long history of little or no new money. The Employer has the best or second best average salary in the comparison groups.

The Employer made the decision to raise its premium equivalent to increase reserves and pay for past claims based upon the advice of its actuary. Its actuary testified as follows. Actuarial science is not exact. The Employer underestimated its premium equivalent last year and, as a result its reserves fell to a low level. He stated that he would not recommend remaining at the current reserve level adjusted for increase costs in the manner suggested by the Association. He and the Employer contemplated going to a 10 month reserve level (\$448.40(s)/\$1,120.96), but, upon the objections by the Association, it went to a six month level (\$422.00/\$1,110). He recommended that level as prudent. The reason the Employer's position changed this year are; 1. medical costs have increased by 1.5% per month, led particularly by prescription drug price increases. 2. The plan had a 28.5% increase in claims in the 2004-5 school year. 3. The plan experienced in 2005-06 a large number of very large claims. There were 2 claims in the \$75,000-\$100,000 range and 3 claims in excess of \$100,000. Everyone else went to a plan which would contain some of the usage. Past history has shown that this has resulted in even reduced premium-equivalents.³ It notes that the Association sought the benefit of the cost savings in the year when premium equivalents have gone down.

The Employer relies upon the same comparability groups which the parties used before Arbitrator Hoh, the 5 larger and 5 smaller, and MAC. The Association has changed its comparison group to the 10/10 because of the unfavorable light the correct groups put the Association's position in to. Arbitrator Hoh relied on the MAC comparison group. The only part of compensation where Bettendorf is not number 1 or 2 in both groups is the very bottom of the salary schedule. Several of the comparison groups have false hiring bases above the schedule base. Bettendorf cannot compete at the hiring step because the Association refused to agree to a false hiring base. Bettendorf has the highest coaching costs per full time equivalent teacher, high substitute costs per FTE, and a reasonable pupil teacher ratio. The Employer's offer exceeds all but one of the settlements in MAC, while the Association's total package would make it number 1. The Employer slightly exceeds the state-wide settlement average, the average of schools with little new money, and is close to the average settlement in of the largest 8 school districts in the state. Total package comparisons are based on percentages. In fact, when teachers are already paid among the highest in the state, a comparable percentage here gives teachers a greater dollar amount of increase. Accordingly, the Employer believes its position as to wages should be adopted.

The Employer states that there is no extra-curricular position of cross-country coach in the middle school. The position has always been a voluntary position. Accordingly, there should be no supplemental salary for the position. There are few districts in the athletic conference which have the position. Under the circumstances of this case, the additional cost of pay for these voluntary positions is an unwarranted allocation of this total package.

³ The premium equivalent went down in 2002-3. The premium equivalent went down from the year before as a result of a change to a less expensive plan.

DISCUSSION

This is an in interest arbitration proceeding under Ch. 20, Iowa Code. The arbitrator is required by Section 20.22 (9), Iowa Code, to select the final offer of one party or the other without modification with respect to each impasse item. The parties have agreed that each of the two items in this dispute is a separate impasse item. The arbitrator is required to evaluate the offers of the parties based upon the criteria specified in Section 20.22(9), Iowa Code. One of the factors which is important to the analysis but does not bear upon the outcome is the nature of the bargaining process which the parties used. The parties have indicated that they used a "modified" form of interest based bargaining leading to this contract. The analysis herein properly takes that process into account.

1. SALARY

There are many ways the comparison factor is applied to determine salary and benefit increase. One popular method is to compare the total package increased offered by parties to packages agreed upon by other parties similarly situated in Iowa. A comparison of those figures relies upon a relatively uniform method of costing. The method commonly applied in Iowa and elsewhere is called the "roll forward" method. It is the parties' positions based upon this method which has led to this dispute.

The parties both agree that the core issue in this case is the impact of the extremely large increase which the Employer has made to its premium-equivalent to its self-funded health insurance plan affecting this contract year. The Employer costs its proposal as 4.79% total package, \$852,270 actual cost (on the roll forward method of costing). It costs the Association's proposal as 5.66%, \$1,008,053 actual cost (roll forward). The parties essentially agree that this costing is correct, except the Association contends that the health insurance increase for the roll forward method should not include the increase in the health insurance premium to the extent that it increases the reserve level.

Bettendorf, like employers everywhere, has been faced with an ever increasing health insurance costs. However, unlike other employers generally, Bettendorf has been affected by a number of unexpected and unusual factors locally which have caused its plan reserves to tend to dwindle since their high of \$2,854,875 in 2003. they went down to just \$1,669,763 in 2005. This is by far their lowest figure since 2001 and constitutes "4 months" reserves. I note that the term "4 months" has caused some confusion because the term relates not so much to the time in which claims are paid, but the cushion against unexpectedly high catastrophic claims. The fund remained solvent at all times and there is no dispute as to its solvency. However, the sudden decline prompted a letter of caution on August 17, 2005, from the Iowa Insurance Commissioner stressing his concern about the decline. The reason for the concern is that history has shown that funds with declining reserves in a context of steeply increasing health costs quickly get into financial trouble. It is extremely hard for public employers to put the large amount of money normally necessary to rectify a plan which has losses exceeding reserves.

The Employer has responded by setting its premium equivalent at \$508,742 (23.7% higher) above its 2005-06 amount of \$2,147,455 (\$4,656,198). The Employer had at first proposed during bargaining that reserves be set at 10 months, but changed that position to six months reserves after the conclusion of bargaining. The School Board has approved the six months' figure as its final figure. Accordingly, the six months figure is used in this decision.

One of the Association's chief arguments is that under the roll forward method of costing the premium equivalent should be rolled forward from the 4 month level it ended on to that amount expected to be the 4 month level for the next year, any additional costs being outside the roll forward method (much as savings from turnover in employees is outside the roll forward method). This argument is not sound for several reasons. First, health insurance premiums are ordinarily a cost item set without involvement by the employer. Health insurance costs are taken at whatever they are. Next, even if the Association's theory were correct, where there has been a decline in reserve level based upon unexpectedly high catastrophic ("shock") claims, it would make more sense to roll forward from a reserve level which was "sound" to the amount which would constitute the same level. Neither party presented evidence sufficient to make a decision in that theoretical way.

The main point of contention from the Association is that an amount equivalent to an expected four month reserve is adequate for the plan's needs and that the Employer's choice to go above that should not count against the total package increase. The Association offered two pieces of evidence in favor of its position. The first was a statement that the Association received from the Insurance Commissioner in a telephone call in which the Insurance Commissioner's office stated that 4 months of reserves was appropriate for the plan. The second was information provided to the Association from the labor representative of the third party administrator, Wellmark Blue Cross. The information provided is that premium equivalents should be set at expected claims plus administrative costs. Wellmark expected its claims to increase by 10%, not 25% and, therefore, 10% increase in premium equivalent was appropriate.

The choice of the Employer to change at the last minute from a plan to have 10 months reserve to 6 months reserve has added to the Association's suspicion that the Employer was manipulating the premium-equivalent. Accordingly, this issue requires careful analysis of the evidence

The Employer offered the testimony of its actuary, Carl Harris, to explain its actions in increasing the premium equivalent. Under Iowa law, public employers are required to obtain an annual report from an actuary which must then be filed with the Insurance Commissioner. Mr. Harris provided that report to the Employer in July, 2005, suggesting a 10 month level. Mr. Harris testimony was direct and fully supported by the data he presented. It was forthright. I, therefore, find it credible in all respects and more reliable than the statements offered by the Association.

Mr. Harris testified to a number of factors which have affected the plan and affect planning for premium reserves. I summarize his testimony as follows. Insurance costs are rising at the rate of 1 to 1.5% a month in Iowa. In this context, a plan which has declining reserves can get into serious trouble within 3 years very easily.

There are several factors which have affected this plan. First, the Employer substantially reduced its premium equivalent in 2002-3 as part of a change to a less expensive insurance plan. Nonetheless, it appears this was too steep. Second, claims for the year ending June 30, 2004, were higher than expected. The plan paid out \$180,000 more in claims than it took in. (This caused a decline in reserves). Third, and most important, in the year ending June 30, 2005, the plan paid out \$620,000 more than was contributed or received in reinsurance payments. The main difficulty in the year ending June 30, 2005, was the fact that there were a large number of "shock" claims. For the first time, the plan has experienced large claims. There have been two claims in the \$75,000 to \$100,000 range and 3 claims in excess of \$100,000. Reinsurance has contributed some to these claims, but the premium for reinsurance has consequently been increased.

Mr. Harris testified that he originally recommended a 10 month reserve, and that he would not recommend less than a six month reserve. His reasons for this are:

1. Costs continue to increase at 1-1.5% per month
2. The fact that "shock" claims have occurred means the plan must be prepared for more "shock" claims.
3. Reserve needs were underestimated in previous years requiring both adequate reserves for this year and reserves to make up the short fall.
4. The "shock" claims have increased reinsurance premiums.

He stated that he disagreed with the information provided to the Association and upon which the Association relied. He stated that the people who gave the Association that information probably were not aware of the decline in reserves and the causes for that decline.

I conclude that the Employer had a fiduciary responsibility to rely on sound actuarial advice. The testimony of Mr. Harris is supported by specific facts and is rationally drawn from them. There is no credible contravening testimony. His judgment appears reasonable on the facts. Therefore, the best available evidence substantiates the Employer's position that 6 months reserve is necessary for the prudent administration of the plan.

There is another factor affecting the premium-equivalent which was unrelated to actuarial testimony. The Employer proposed changes to the plan from the Alliance Select 250/500 to the Alliance Select 500/1000 plan. This change was agreed upon by

other units and instituted for unrepresented employees. This would have lowered the premium-equivalent. The Association did not agree to the change. This may be true because a low wage increase may mean that some employees may actually be receiving less money. Health insurance is essentially a risk sharing device whereby employees can spread the risk of catastrophic loss over a larger group. These losses have occurred here in Bettendorf "in spades." Reduction in bottom dollars to insure continuing protection against large losses would have been reasonable.

The wage rate comparisons offered by the parties tend to show the same thing. I rely upon comparisons to the MAC because all of these districts are relatively proximate to Bettendorf and share the same economy. They are about the same size, but Davenport is significantly larger. Bettendorf is below average at the BA base. It is significantly lower when comparing actual hiring rates because several school districts have an enhanced hiring base.⁴ It is about average at the BA step 5 and ranks second in the BA 10 category. It ranks about average on the top BA minimum, third on the top BA step 5 and third on the top BA maximum. It is third on the MA minimum, second on the MA step 5 and first by \$4,194 on the MA maximum. It is third, but well above average on the to MA minimum, third, but well above average, on the top MA step 5 and number 1 by \$4,007 above average in the MA maximum.

Bettendorf has a comparatively high longevity plan. Burlington, Davenport and Newton do not have longevity plans separate from their salary schedules. Bettendorf is number 2 among all of the Employer's comparables in longevity payments to teachers, averaging \$1,380 (\$860 more than average) per teacher. This may be skewed by the fact that there are more senior teachers here than elsewhere. In any event, Bettendorf's plan is one of the best, if not the best, in the MAC.

Average settlements in the MAC are 5% at the highest. Davenport has not settled. Statewide settlements range between 4.76% and 5.59%, but settlements at districts with between .67% new money and 2.67% new money are between 4.38% and 4.56%. Taking into account the fact that percentages generate more money in higher paying districts and the fact that this district has only 1.67% new money, the comparison on this basis substantially favors the Employer's position.

One of the factors arbitrators must consider is past contracts of the parties. This is particularly true in interest based bargaining. The parties here have crafted over the years a significantly different salary schedule than other districts' schedules. The parties have chosen to encourage teachers to stay with the Employer longer and to obtain advanced degrees and credits. This has been realized in Bettendorf where 52.1% of the teachers here have advanced degrees. This is far more than any district among the Employer's comparisons, except Newton and Pleasant Valley. This is clearly a district which highly prizes educated, experienced teachers. Because the parties have mutually established this goal, the Employer's theory of the case stressing high average teacher salaries as a reason to give less of a wage increase is given no weight.

⁴ The Employer made a proposal for setting a hiring base above the generator base, but the parties were unable to reach agreement on that proposal.

Indeed, the Association might reasonably argue that the better view is that the Employer has a significant obligation to maintain that commitment to teachers who have met the mutual goals.

Be that theory as it may, the fact is that under the facts of this case, the Employer's wage proposal, while not desirable, is closer to appropriate than the Association's. There is no question in this case about the Employer's ability to pay for the Association's proposal. It clearly has the ability to meet the Association's proposal. The issue in this case is not one of ability, but one of prudence. Prudence is on the Employer's side. The Employer's proposed package increase is \$852,270, while the Association's is \$1,008,053. If the Employer applied all of its new money toward the package, not just that proportion properly allocated to the teachers, it would have only \$345,938 toward the wage increase. It laid off teachers because of declining enrollment. If it applied all of the savings it obtained from that, it would have \$131,000, plus the savings from their health insurance. The Employer has had significant turnover with a large number of retirements. These savings are about \$384,037, but will diminish with time.⁵ The Employer's offer is closer to that which is prudent. Accordingly, the Employer's wage position is adopted.

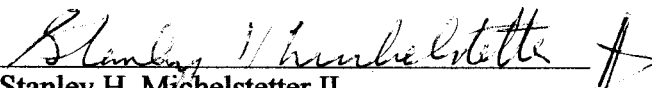
2. MIDDLE SCHOOL CROSS COUNTRY COACH

The parties disagree as to whether there are middle school cross country coach positions. The Association's goal is to use the arbitration process to force the Employer to choose between no program or one that is paid. The arbitrator's authority is limited to determining the appropriate pay for supplemental positions and not to requiring their creation. This arbitrator has repeatedly declined to adopt positions which are likely to lead to further conflict. The better view is to grant supplemental pay where there is no dispute about the existence of the position in issue. I note that few comparable districts have supplemental pay for this type of position. Accordingly, the Employer's position is adopted on all of the issues.

AWARD

The Employer's position on both issues is preferable under the statutory criteria and, therefore, its position is adopted on both issues.

Dated at Sun Prairie, Wisconsin, this 6th day of June, 2006.


Stanley H. Michelstetter II,
Arbitrator

⁵ There was insufficient evidence to determine how special education payments would affect this settlement.